

FCRA IMPACT

◆ Legal Series Vol. XIII ◆ Issue 7C ◆ October 2020

For private circulation only

PUBLIC NOTICE REGARDING DESIGNATED BANK ACCOUNT



Authors* :

Dr. Manoj Fogla, Advocate

Dr. Sanjay Patra, ED, FMSF

Suresh Kejriwal, Consultant

Sandeep Sharma, Director Program, FMSF

* The Authors can be contacted at mfogla@yahoo.com

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Resource support on NGO Governance, Accounting and Regulations



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IN A NUTSHELL

- 1.01** The Foreign Contribution (Regulation) Amendment Act, 2020 was introduced in Lok Sabha on September 20, 2020 and was made effective from 29th September 2020. It states that the designated bank account in which all the foreign contributions are received, should be opened in the specified branch of State Bank of India at New Delhi as the central government may by the Public Notice specify in this behalf.
- 1.02** The FCRA Department vide Public Notice dated 7th October 2020 has specified the State Bank of India (SBI), Main Branch, 11, Sansad Marg, New Delhi - 110001 as the branch for the purposes of section 17 of FCR Amendment Act, 2020 under which designated account is required to be opened. The said Public Notice is provided in ***Annexure 1***.
- 1.03** The FCRA Department vide Public Notice dated 13th October 2020 has extended/relaxed the time in which the designated bank account in SBI Delhi is required to be opened. By virtue of this notice all NPOs can now open the designated bank account with SBI, New Delhi by 31st March 2021.
- 1.04** All NPOs can continue to receive foreign contribution in the existing designated bank account till they open the designated bank account with SBI, New Delhi or 31st March 2021 which ever is earlier. The said Public Notice is provided in ***Annexure 2***.

PRE-AMENDMENT PROVISION REGARDING BANK ACCOUNT

- 2.01** Section 17 of the FCRA Act, 2010 states that the organizations which has been granted prior permission or granted registration shall receive foreign

contributions in the designated bank account only. Currently, FCRA registered organizations can open designated bank accounts as well as utilization bank accounts with any core banking compliant bank integrated with the public financial management systems (PFMS). Hence there were two layers of bank accounts, one designated bank account for receiving foreign contribution and second utilization bank account for utilizing the FC received.

FCRA BANK ACCOUNT PROVISIONS AFTER AMENDMENT

3.01 The amended Section 17 after FCR Amendment Act, 2020 is reproduced as under:

“Foreign Contribution through scheduled bank

17 (1) Every person who has been granted certificate or prior permission under section 12 shall receive foreign contribution only in an account designated as “FCRA Account” by the bank, which shall be opened by him for the purpose of remittances of foreign contribution in such branch of the State Bank of India at New Delhi, as the Central Government may, by notification, specify in this behalf :

Provided that such person may also open another “FCRA Account” in any of the scheduled bank of his choice for the purpose of keeping or utilising the foreign contribution which has been received from his “FCRA Account” in the specified branch of State Bank of India at New Delhi :

Provided further that such person may also open one or more accounts in one or more scheduled banks of his choice to which he may transfer for utilising any foreign contribution received by him in his “FCRA Account” in the specified branch of the State Bank of India at New Delhi or kept by him in another “FCRA Account” in a scheduled bank of his choice :

Provided also that no funds other than foreign contribution shall be received or deposited in any such account.

(2) The specified branch of the State Bank of India at New Delhi or the branch of the scheduled bank where the person referred to in sub-section (1) has opened his foreign contribution account or the authorised person in foreign exchange, shall report to such authority as may be specified,—

- (a) the prescribed amount of foreign remittance;*
 - (b) the source and manner in which the foreign remittance was received; and*
 - (c) other particulars,*
- in such form and manner as may be prescribed.]”*

3.02 Summary of Amendments : The amended section 17 provides for three layers of bank accounts:

- a) FCRA Designated Account :** The designated bank account, in which all the foreign contributions are received, should be opened in the specified branch of State Bank of India at New Delhi as the central government may by the notification specify in this behalf.:
- b) Another FCRA Account :** Such person may also open another FCRA Account in any of the scheduled bank of his choice for the purpose of keeping or utilising the foreign contribution which has been received from their FCRA Account in the specified branch of State Bank of India at New Delhi, such bank account will become the “Defacto Designated Account”.
- c) Utilisation Account :** Further, such person may also open one or more accounts in one or more scheduled banks of his choice to which he may transfer for utilising any foreign contribution received by him in his FCRA account in the specified branch of the SBI, New Delhi or kept by him in another FCRA Account in a scheduled bank of his choice.

SPECIFIED BRANCH OF STATE BANK OF INDIA IN NEW DELHI

- 4.01** The FCRA Department vide Public Notice dated 7th October 2020 specified the State Bank of India, New Delhi Main Branch (NDMB), 11, Sansad Marg, New Delhi - 110001 as the branch for the purposes of section 17 of FCRA 2010 under which designated account is required to be opened. The said Public Notice is provided in ***Annexure 1***.
- 4.02** The FCRA Department vide Public Notice dated 13th October 2020 has extended/relaxed the time in which the designated bank account in SBI Delhi is required to be opened. By virtue of this Public Notice all NPOs can now open the designated bank account with SBI, New Delhi by 31st March 2021.
- 4.03** All NPOs can continue to receive foreign contribution in the existing designated bank account till they open the designated bank account with SBI, New Delhi or 31st March 2021 which ever is earlier. The said Public Notice is provided in ***Annexure 2***.
- 4.04** The public notice dt 13-10-2020 also mention the relevant particulars of this branch i.e. NDMB as follows:
- | | |
|---------------|-------------------------------|
| Branch Code : | 00691 |
| IFSC : | SBIN000691 |
| SWIFT : | SBININBB104 |
| E-mail : | agmforex.00691@sbi.co.in |
| | agmcommercial.00691@sbi.co.in |
| | sbi.00691@sbi.co.in |

TRANSITION WINDOW FROM 29.09.2020 TO 31.03.2021

- 5.01** The FCR Amendment Act, 2020 has become effective from 29.09.2020 and as per the amended act an organisation can receive FC fund only through a designated bank account to be opened at SBI, New Delhi. The sudden enactment of the amendment resulted in virtual freeze over all FC inflow into the country. The process of opening of bank account with SBI, New Delhi was subject to designation of the bank branch and also the time needed to open bank account for all the FC registered organisations from all over the country.
- 5.02** In the light of the hardship caused by the provision pertaining to bank account, the FCRA department has issued a Public Notice dt. 13.10.2020 allowing additional migration time upto 31st March 2021 for opening of such bank account. An organisation can receive foreign contribution in the existing bank account upto the date of opening of the designated bank account in SBI, New Delhi or 31st March 2021 which ever is earlier. The notice permits the following :
- “(a) All the persons/NGOs/associations who have been already granted certificate of registration or prior permission by the Central Government to receive FC and whose present accounts are in banks or branches other than the specified branch i.e. NDMB, shall have to open “FCRA Account” in the NDMB. The Central Government has decided to grant sufficient time to the existing “FCRA Account” holders for transitioning to the new regime. They can open the “FCRA Accounts” in the NDMB till 31st March, 2021.
 - (b) The existing FCRA account holders have to open the “FCRA Account” in the NDMB upto 31st March, 2021 or earlier. They shall be eligible to receive FC in the “FCRA Account” in the NDMB w.e.f. 1st April, 2021 or from the date of opening of the “FCRA Account” in the NDMB whichever is earlier. After that date they shall not be eligible

to receive FC in any account other than the “FCRA Account” opened in the NDMB. In this regard, suitable directions are being issued to all scheduled banks in the country.

- (c) All the persons/NGO/associations who already have been granted certificate of registration or prior permission by Central Government may take note that they shall not receive any FC in any account other than the designated “FCRA Account” opened at NDMB of the SBI, 11, Sansad Marg, New Delhi-110001 from the date of opening of such account OR 1st April, 2021, whichever is earlier.”

PROCESS OF OPENING OF NEW BANK ACCOUNT AT SBI

6.01 The above public notice also specified the following procedure for opening new account at SBI, New Delhi :

- “(a) To open the afore-mentioned “FCRA Account” in the NDMB the applicant entity/NGO/association need not the visit the NDMB at Delhi. They may approach either the nearest SBI Branch or any other SBI Branch of their choice for taking action with regard to opening of their “FCRA Account”
- (b) In this regard Standard Operating Procedure (SOP) to facilitate opening and operating the “FCRA Account” in NDMB has been worked out which will be soon uploaded in this portal.
- (c) The NDMB will not levy any transfer charges/fees for transferring the FC from the “FCRA Account” to “another FCRA Account” or other utilization account/accounts in a branch of any scheduled bank.”

WHAT IS THE SIGNIFICANCE OF THE DATE 31ST MARCH, 2021

- 7.01** The existing FC registered NGO's or NGO having Prior permission are allowed to open the new account with the specified branch of State Bank of India (NDMB) latest by 31.03.2021.
- 7.02** However once the new account with State Bank of India (NDMB) is opened, the FC Fund can be received only through the bank account opened with New Delhi Main Branch (NDMB) of State Bank of India.
- 7.03** Hence, the Foreign fund can be received in the present designated bank account upto 31.03.2021 or the date of the opening of the bank account with NDMB of State Bank of India whichever is earlier.
- 7.04** However, if Specified bank account could not be opened with NDMB of State Bank of India within 31.03.2021, FC Fund cannot be received after 31st March, 2021 or till the designated bank account with NDMB of SBI is opened.

WHETHER THE BANK ACCOUNT OPENED WITH NDMB IS REQUIRED TO BE INTIMATED TO THE MINISTRY

- 8.01** The Public Notice issued by FCRA Department has not provided for any requirement of intimating the opening of this bank account to the Ministry and allowed the receipt of FC Fund through this Bank Account. However, under Rule 17A an organisation is required to file Form FC - 6E for change in bank account. Since there is no formal direction from the FCRA Department in this regard, it is advisable to file an intimation under Form FC - 6E after opening of the bank account, within 15 days.

WHETHER THE EXISTING DESIGNATED BANK ACCOUNT NEEDS TO BE RE-APPROVED WITH THE MINISTRY

- 9.01** The Present Designated Bank account which is maintained for the purpose of receiving Foreign Contribution is an approved designated bank account. However, after the FCR Amendment Act, 2020, this bank account can be retained as “*another FCRA Account*” which can be used for the purpose of keeping and utilising Foreign Contribution.
- 9.02** The Point. No. 9 of the Public Notice dated 13th October, 2020 provides that “the applicant/NGO/association has complete liberty to retain its present ‘FCRA Account’ as another ‘FCRA Account’ in any branch of a scheduled bank of its choice. They can link this account with the designated ‘FCRA Account’ opened at the NDMB”.
- 9.03** In our opinion there will be no further compliance for re-purposing this bank account as Ministry by above referred Public Notice has allowed to retain the present designated bank account as Another FCRA Account.

BANK ACCOUNT FOR FRESH APPLICANTS FOR CERTIFICATE OF REGISTRATION OR PRIOR PERMISSION

- 10.01** As per Point.No. 5 of the Public Notice
“All the fresh applicants for certificate of registration or prior permission under the FCRA, 2010 shall have to open the ‘FCRA Account’ in the NDMB to receive any FC if they are granted certificate for registration or prior permission by the Central Government later on”.
- Therefore, going by the current procedure all such applicants have to open a designated bank account in the in the SBI, New Delhi Main Branch at the time of making application for registration or prior permission. However, greater clarity in this regard is expected from FCRA Department.

WHETHER THE EXISTING UTILIZATION BANK ACCOUNT CAN CONTINUE WITHOUT ANY FURTHER FORMALITIES

11.01 As there is no change in the status of Utilized Bank Account, we understand that existing Utilized Bank Account can continue to be used without any further formalities.

ANNEXURE 1**PUBLIC NOTICE SPECIFYING SBI, SANSAD MARG BRANCH
UNDER SECTION 17(1)**

The Gazette of India

सी.जी.-डी.एल.-अ.-07102020-222285
CG-DL-E-07102020-222285

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 3096] नई दिल्ली, बुधवार, अक्तूबर 7, 2020/आश्विन 15, 1942
No. 3096] NEW DELHI, WEDNESDAY, OCTOBER 7, 2020/ ASVINA 15, 1942

गृह मंत्रालय
अधिसूचना

नई दिल्ली, 7 अक्तूबर, 2020

का.आ. 3479(अ).—केन्द्रीय सरकार, विदेशी अभिदाय (विनियमन) अधिनियम, 2010 (2010 का 42) की धारा 17 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय स्टेट बैंक, नई दिल्ली मुख्य शाखा, 11, संसद मार्ग, नई दिल्ली -110001 को उक्त उप-धारा के प्रयोजनों के लिए शाखा के रूप में विनिर्दिष्ट करती है।

[फा. सं. II/21022/23(35)/2019-एफसीआरए-III]

आशुतोष अग्निहोत्री, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS
NOTIFICATION

New Delhi, the 7th October, 2020

S.O. 3479(E).—In exercise of the powers conferred by sub-section (1) of section 17 of the Foreign Contribution (Regulation) Act, 2010 (42 of 2010), the Central Government hereby specifies the State Bank of India, New Delhi Main Branch, 11, Sansad Marg, New Delhi-110001 as the branch for the purposes of the said sub-section.

[F. No. II/21022/23(35)/2019-FCRA-III]

ASHUTOSH AGNIHOTRI, Jt. Secy.

4770 GI/2020

Uploaded by Dte. of Printing at Government of India Press, Ring Road, Mayapuri, New Delhi-110064
and Published by the Controller of Publications, Delhi-110054.

SAANSAD MARG
NEW DELHI
110001

ANNEXURE 2**PUBLIC NOTICE REGARDING PROCEDURE AND EFFECTIVE DATE OF BANK ACCOUNT WITH SBI**

F.No.II/21022/23(35)/2019-FCRA-III

Government of India
Ministry of Home Affairs
Foreigners Division, FCRA Wing

First Floor, Major Dhyan Chand National Stadium
India Gate Circle, New Delhi-110001
Dated : 13th October, 2020

PUBLIC NOTICE

Subject : Procedure for opening & operating the designated "FCRA Account" as provided under the amended Section 17(1) of The Foreign Contribution (Regulation) Act, 2010.

The Foreign Contribution (Regulation) Amendment Act, 2020 has come into operation vide Gazette Notification dated 29th September, 2020. The amended Section 17 of the Foreign Contribution (Regulation) Act, 2010 provides as under :

"17.(1) Every person who has been granted a certificate or given prior permission under section 12 shall receive foreign contribution only in an account designated as "FCRA Account" by the bank, which shall be opened by him for the purpose of remittances of foreign contribution in such branch of the State Bank of India at New Delhi, as the Central Government may, by notification, specify in this behalf:

Provided that such person may also open another "FCRA Account" in any of the scheduled bank of his choice for the purpose of keeping or utilising the foreign contribution which has been received from his "FCRA Account" in the specified branch of State Bank of India at New Delhi.

Provided further that such person may also open one or more accounts in one or more scheduled banks of his choice to which he may transfer for utilizing any foreign contribution received by him in his "FCRA Account" in the specified branch of the State Bank of India at New Delhi or kept by him in another "FCRA Account" in a scheduled bank of his choice:

Provided also that no funds other than foreign contribution shall be received or deposited in any such account.

(2) The specified branch of the State Bank of India at New Delhi or the branch of the scheduled bank where the person referred to in sub-section (1) has opened

his foreign contribution account or the authorised person in foreign exchange, shall report to such authority as may be specified,-

- (a) the prescribed amount of foreign remittance;
- (b) the source and manner in which the foreign remittance was received; and
- (c) other particulars,

in such form and manner as may be prescribed."

2. The Central Government has specified the New Delhi Main Branch (NDMB) of the State Bank of India (SBI), 11, Sansad Marg, New Delhi-110001 for the purposes of opening the aforementioned "FCRA Account" to receive Foreign Contribution (henceforth called FC).

3. Each person/NGO/association may kindly note all the amendments made through The Foreign Contribution (Regulation) Amendment Act, 2020 for compliance henceforth. The amended Section 17 mandates that each person/NGO/association which has been granted FCRA certificate of registration or prior permission shall henceforth receive such FC only in a designated "FCRA account" to be opened in the above-mentioned specified branch of SBI. The relevant particulars of this branch i.e. NDMB are as follows :

Branch Code	:	00691
IFSC	:	SBIN0000691
SWIFT	:	SBININBB104
e-mail	:	agmforex.00691@sbi.co.in
	:	agmcommercial.00691@sbi.co.in
	:	sbi.00691@sbi.co.in

4. All the persons/NGOs/associations who have been already granted certificate of registration or prior permission by the Central Government to receive FC and whose present accounts are in banks or branches other than the specified branch i.e. NDMB, shall have to open "FCRA Account" in the NDMB. The Central Government has decided to grant sufficient time to the existing "FCRA Account" holders for transitioning to the new regime. They can open the "FCRA Accounts" in the NDMB till 31st March, 2021.

5. However, all fresh applicants for certificate of registration or prior permission under the FCRA, 2010 shall have to first open the "FCRA Account" in the NDMB to receive any FC if they are granted certificate of registration or prior permission by the Central Government later on.

6. The existing FCRA account holders have to open the "FCRA Account" in the NDMB upto 31st March, 2021 or earlier. They shall be eligible to receive FC in the "FCRA Account" in the NDMB w.e.f 1st April, 2021 or from the date of opening of the "FCRA Account" in the NDMB whichever is earlier. After that date they shall not be eligible to receive FC in any account other than the "FCRA Account" opened in the NDMB. In this regard, suitable directions are being issued to all scheduled banks in the country.

7. To open the afore-mentioned "FCRA Account" in the NDMB the applicant entity/NGO/association need not the visit the NDMB at Delhi. They may approach either the nearest SBI Branch or any other SBI Branch of their choice for taking action with regard to opening of their "FCRA Account".

8. In this regard, a Standard Operating Procedure(SOP) to facilitate ,opening and operating the "FCRA Account" in NDMB has been worked out which will be soon uploaded on this portal.

9. It is further clarified that the applicant person/NGO/association has complete liberty to retain its present "FCRA Account" as the another "FCRA Account" in any branch of a scheduled bank of its choice. They can link this account with the designated "FCRA Account" opened at the NDMB.

10. The NDMB will not levy any transfer charges/fees for transferring the FC from the "FCRA Account" to "another FCRA Account" or other utilization account/accounts in a branch of any scheduled bank.

11. All the persons/NGOs/associations who already have been granted certificate of registration or prior permission by Central Government may take note that they shall not receive any FC in any account other than the designated "FCRA Account" opened at NDMB of the SBI, 11, Sansad Marg, New Delhi-110001 from the date of opening of such account OR 1st April, 2021, whichever is earlier.

12. NGOs/associations are also advised to frequently visit through the FCRA web portal at fcraonline.nic.in for further updates in this matter.


(Santosh Sharma)
Director(FCRA)
Tele.:011-23077510
13/04/20

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Published by **Dr. Sanjay Patra** on behalf of
FINANCIAL MANAGEMENT SERVICE FOUNDATION
'ACCOUNTABILITY HOUSE', A-5, Sector 26, Noida-201 301
Tel. : 91-120-4773200, website : www.fmsfindia.org
e-mail : fmsf@fmsfindia.org